

SUPERSEDES      EFFECTIVE DATE

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## NEVADA BOARD OF PAROLE COMMISSIONERS

### **OPERATION OF THE BOARD**

REVISED  
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## **MISSION STATEMENT:**

1. The Nevada Board of Parole Commissioners shall serve the public interest by making reasonable and responsible decisions to continue incarceration or release adult offenders to community supervision. The Nevada Board of Parole Commissioners will in all cases consider whether the release of an offender is compatible with the health, safety and welfare of the community:

A. Whether the action conforms with the laws of the United States of America and the State of Nevada;

B. Whether there is a reasonable probability that the prisoner will live and remain at liberty without violating the laws;

C. Whether the release is incompatible with the welfare of society;

D. The seriousness of the offense and the history of criminal conduct of the prisoner;

E. The standards adopted pursuant to NRS 213.10885 and the recommendation, if any, of the Nevada Division of Parole and Probation (NDPP) and the Nevada Department of Corrections (NDOC);

F. Any documents or testimony submitted by a victim notified pursuant to NRS 213.130;

G. Any documents submitted by Judges, District Attorneys, law enforcement agencies, concerned citizens, and victim's advocates; and

H. Any documents submitted which tend to support the prisoners return to society.

## **PAROLE APPLICATION HEARINGS:**

1. The Board does not determine who is eligible for parole, nor does it calculate prison expiration dates. These are functions of the NDOC which also records statutory good time and other credits earned by inmates. Inquires regarding credits earned, parole eligibility and expirations of prison terms, shall be directed to the NDOC records office, which is responsible for maintaining accurate timekeeping records.

2. All hearings conducted by the Board are open to the public in compliance with the Nevada Open Meeting Law. Persons attending such hearings may do so as observers only, with the exception of victims and direct family members of victims, who are allowed by Nevada Law to speak at these hearings. The Board may ask questions of anyone in attendance.

3. Individual votes of all commissioners and recommendations of hearing representatives on all decisions shall be recorded in accordance with the Open Meeting Law.

*(PAROLE APPLICATION HEARINGS continued)*

4. Hearings will be conducted by panels.
5. The results of the Board's deliberations will not be announced until four members are in agreement, and the institutions, facilities and the applicant are notified of the decisions. This ratification process will take place as soon as is practical, with notification taking place within 7 working days from the end of each month's agendas or as soon as practicable thereafter.
6. Under the provisions of Section 4, NRS 213.130, the Board may deliberate in private following a public hearing held to consider an applicant for parole. The Board often considers information which must, by law, be classified as confidential, including information obtained by parole and probation officers and employees of the Board (NRS 213.1096), or when considering physical or mental health of parole applications (NRS 241.030). Sessions of the Board to consider these matters are private.
7. Parole is an act of grace by the State of Nevada and the release of a prisoner from confinement after serving a portion of his sentence is discretionary. While on parole the prisoner remains under the supervision of NDPP until he has completed his sentence or is granted early discharge.
8. In cooperation with NDOC, the Board has adopted a policy of considering paroles four months or more in advance of minimum parole eligibility dates. In the event an inmate is not seen during the month in which his name appears on an eligibility list, the inmate will be rescheduled once his name is re-submitted to the board on an eligibility list prepared by the NDOC. The board will not add the name of an inmate onto an agenda unless his name appears elsewhere on that month's published eligibility list, and proper public notice has been accomplished unless authorized by the Executive Secretary or Parole Board Chairman.
9. All inmates eligible for parole under Nevada Statutes shall be considered for parole.
10. The Board will not act or rule on claims of inaccuracies in pre-sentence investigations. Any claims of inaccuracies in a pre-sentence investigation report should be addressed to the NDPP who is responsible for the preparation of these reports.
11. Representation of parole applicants is not permitted unless the applicant suffers from mental, physical, or language disabilities that impede communications with the Board or panel.
12. Inmates who are made immediately eligible for parole by action of the State Pardons Board will not be considered by the Board until the 30 day notification required by law can be effected. This notification may be waived by action of the Board of Pardons.

## **HEARING REPRESENTATIVES:**

1. The Board is authorized by law to designate hearing representatives to assist in meeting the required schedule of parole considerations.
2. Hearing representatives are assigned to panels to make recommendations to the Board.

## **PANEL HEARINGS:**

1. Panels may consist of one commissioner and one hearing representative or two or more commissioners.
2. Three or more commissioners will conduct hearings for those inmates incarcerated for crimes named in NRS 213.120.6.
3. Parole violation panels will consist of two or more commissioners.
4. As a consideration of delegating authority to a panel, Nevada Law requires that the recommendation of a panel be subject to ratification by a majority of the Board.
5. Panels will make recommendations to the Board for final action on parole applications or parole revocations as required by NRS 213.133.

## **PAROLE DECISIONS:**

1. The Board has adopted standards as required by NRS 213.10987, which meet the requirement of providing greater punishment for a convicted person who has a history of repetitive criminal conduct or who commits a violent crime. Copies of the standards adopted by the Board are available at 2601 E. Sahara Avenue, Las Vegas, NV 89104 or 1445 Hot Springs Road, Suite 108-B, Carson City, NV 89711 or at the Board's web site located at <http://parole.state.nv.us>.
2. The Board complies with NRS 213.1099, which limits the Board's power to release prisoners on parole.
3. During the deliberation portion of a two-panel hearing, if the panel members are unable to concur in a recommendation to grant or deny parole, the inmate will be placed on the following month's agenda and will be considered by a panel of three members or a panel of two different members and/or hearing representatives.
4. If a split decision (tied vote during the ratification process) should occur, the parole candidate will be scheduled for a parole hearing six months after the split decision is rendered.
5. Paroles, under Nevada Law, may be denied for a maximum period of three years. If ten years or more remain on the sentence and the crime was committed after July 1, 1995, the denial period may be a maximum of five years.

*(PAROLE DECISIONS continued)*

6. An inmate who has escaped shall not be considered for parole until returned to the custody of NDOC.
7. Inmates housed in other states under compact terms will be considered for parole in absentia when eligible. The Board will require a current progress report. Upon return to NDOC custody, a personal hearing will be scheduled upon request.
8. Waivers of Parole consideration are not allowed under Nevada Law. Accordingly, the Board will not honor waivers. Those inmates refusing to appear at scheduled personal hearings will have their cases considered and action taken in absentia.
9. As part of the parole decision making process, the Board receives and welcomes evaluations from health care professionals and prison personnel.
10. The Board has requested the NDOC to inform it of infractions of the Code of Penal Discipline by prisoners eligible for parole consideration.
11. Applicants who commit violations of the Code of Penal Discipline may be subject to an adverse parole decision.
12. The Board may take action to rescind the parole of a prisoner who has received a positive decision from the Board and prior to his release date becomes involved in violations of the Code of Penal Discipline. The Board may schedule a personal hearing to reconsider a previous order (RPO) or take action in absentia.
13. The Board may take action to rescind the parole of a prisoner if adverse information absent at the time the panel considered the inmate for parole is brought to the attention of the Board, and a majority of the Board concurs that the new information is serious enough to warrant a parole rescission.

**CHAIRMAN'S VETO OF RECOMMENDATION TO DEVIATE FROM GUIDELINES**

1. Pursuant to NRS 213.133 subsection (7), if a recommendation made by a panel deviates from the standards adopted by the board pursuant to NRS 213.10885 or the recommendation of the Division of Parole and Probation, the chairman must concur in the recommendation.
2. In the event the chairman does not concur in the recommendation, the case will be referred back to the panel that made the recommendation.

**A) Veto of Paroles Granted Under Standards**

1. The panel will consider the chairman's reasons for denying, the length of time needed to be served for the inmate to reach the minimum guideline recommended months to

*(CHAIRMAN'S VETO Continued)*

serve, the impact on applicable victims and any other relevant information regarding the case to assist in determining the parole denial length.

2. In the event a majority of the board cannot agree on the denial length, the inmate will be rescheduled for a hearing one year from the date of the current parole eligibility date.

**B) Veto of Paroles Denied Over Standards**

1. The panel will consider the chairman's reasons from not wanting to deny parole, or the reasons for a denial period to be less than the panel recommendation to assist them in determining an appropriate period of denial.
2. In the event the chairman does not concur in the panel recommendation after further review, the inmate will be rescheduled for a hearing one year from the date of the current parole eligibility date.

**PAROLE APPLICATIONS:**

1. A prisoner does not need to prepare a formal application for parole. The NDOC will determine when each prisoner is eligible to be considered for parole, notify the Board, and compile and provide to the Board data that will assist it in determining whether parole should be granted.
2. Parole progress reports provided by prison staff shall include, but not be limited to, time served on each case; The applicant's disciplinary history while imprisoned; Program participation; The parole plan if known, including residence and employment opportunities; A summary of pertinent facts of the crime for which the convicted offender is imprisoned; A summary of prior criminal history, and any recommendations of the NDOC staff.
3. Prisoners convicted of capital offenses in which the death penalty, or life without the possibility of parole have been imposed, but whose sentences have been commuted and have served 20 consecutive years in NDOC will be considered by a panel of three or more commissioners.
4. At the request of NDPP, the Board does not grant parole to Carson City unless it was the place of legal residence at the time of the crime. Wives, fiancées, and relatives should be informed that a move to Carson City to be near the prisoner during incarceration is not sufficient grounds to support a parole to Carson City, which already has a high concentration of parolees. This provision may be waived by the Chief Parole and Probation officer.

## **INMATE CONDUCT:**

1. When granted an expected parole date, the prisoner must continue to comply with the Code of Penal Conduct. Violations of the code may be cause to rescind the previous decision to grant parole.
2. The Board may, at the hearing, set a tentative future date for parole which is contingent on continued programming and the inmate remaining disciplinary free. (If either of these requirements are not met, a hearing may be scheduled for reconsideration of the decision.)

## **SPECIAL CONDITIONS:**

1. In addition to the conditions listed on the parole agreement form, the Board may require other special conditions to assure a successful parole such as house arrest, special programming, use of the polygraph, off limit areas, or any other reasonable conditions.
2. All special conditions imposed on parole to the community shall also apply to earlier granted paroles on sentences that remain on active status.
3. Because parolees are very often requested by law enforcement officials to act as informants and undercover agents, and in such capacities are exposed to the environment and associates which had been detrimental to their welfare in the past, the Board urges that parole officers be instructed to prohibit parolees under their supervision from becoming informants or undercover agents for law enforcement agencies, unless the Chief of NDPP directs otherwise.

## **PAROLE GRANT:**

1. Board actions are effective from the minimum parole eligibility date, or at such other future date the Board may set.
2. Prisoners cannot be released on parole prior to attaining minimum parole eligibility.
3. Parole denials date from the minimum parole eligibility date.
4. Release under approved parole plan (RUAPP) requires an investigation by NDPP of the release plan prior to the grant of parole. If the parole plan is determined to be significantly unacceptable the Board may review the previous order (RPO).
5. A parole is not considered granted until all release documents and the parole agreement have been signed by the inmate and release is imminent. The Board encourages final signing immediately prior to release.
6. The Board sets the start time of the parole and the conditions of parole, and the parolee remains subject to the jurisdiction of the Board from the time he is released on parole under the provisions of NRS 213 until the expiration of the maximum term of imprisonment. The



*(PAROLE GRANT Continued)*

Board does not administer paroles, as the NDPP supervises all persons on parole. Parolees that request changes or modifications to the special conditions of parole should do so through their supervising parole officer.

**PAROLE GRANTS TO SEX OFFENDERS:**

1. The Board shall not release on parole a prisoner convicted of a sex offense listed in NRS 213.1214 subsection 5 unless a panel created pursuant to NRS 213.1214 certifies that the prisoner was under observation while confined in an institution of the department of corrections and does not represent a high risk to re-offend based upon a currently accepted standard of assessment.
2. If a parolee serving a sentence for a sex offense listed in NRS 213.1214 subsection 5 is returned to the custody of the NDOC for any reason, the prisoner may not be released again on parole unless a psych panel re-certifies that the prisoner does not represent a high risk to re-offend based upon a currently accepted standard of assessment

**PAROLE GRANTS TO CONSECUTIVE SENTENCES:**

1. An inmate who has been granted parole to a consecutive sentence and is expiring a subsequent sentence with time remaining on the sentence previously granted parole may not be released from the NDOC until the NDPP:
  - a. Receives a viable parole plan from the inmate;
  - b. Conducts a pre-release investigation, and;
  - c. Approves the plan.
2. The failure to provide a viable release plan is grounds for revoking the previous parole since it was originally granted solely to a consecutive sentence.
3. If the inmate's release plans are not approved by the NDPP, the Board may take action to reconsider the parole of the prisoner.
4. The NDOC is authorized to re-activate the paroled sentence upon expiration of the subsequent sentence until such time as NDPP coordinates the release of the prisoner, or the Board revokes the previous parole.

**RECONSIDERATION OF UNFAVORABLE DECISION:**

1. The Board may grant reconsideration to inmates who have been denied parole, when there has been significant change in status since the last Board action.
2. Reconsideration must be approved by a majority of the Board.

*(RECONSIDERATION OF UNFAVORABLE DECISION Continued)*

3. The Board is sensitive to the problems of members of the family of those convicted of crime, but must deal primarily with the offender and the offense. Family circumstances, business affairs, hardship, need, and other problems shared almost universally by prisoners, are not usually considered adequate reasons for advancements.
4. Participation in self-help programs offered by the prison is expected of all inmates in normal course, and such participation is not viewed as sufficient basis for advancement.

**PRE-RELEASE RESCISSION:**

1. The NDPP is authorized to place in effect a moratorium on parole release for an offender who has been charged or found guilty of a major violation of the rules of the Code of Penal Discipline.
2. If the violation will result in detaining the offender beyond the release date specified in the parole order, the NDPP must notify the Board within three working days of being notified that the inmate has been charged or found guilty of a major violation. Upon notice of the violation and request for action, the Board may:
  - a. Take no action and allow the inmate to be released on parole.
  - b. Rescind the parole of the offender.
  - c. Delay parole release until the disposition of the disciplinary charges is known at which time the Board will take appropriate action to rescind or reinstate the Board order.
  - d. Delay parole release and schedule a personal hearing to determine the appropriate action.

**BOARD COMMUNICATIONS:**

1. In the tradition of an open society, parole commissioners will be available to discuss parole matters with interested parties. Appropriate notation will be placed in the inmate folder. The work load of the Board requires that such consultation be by appointment only. Call, (775) 687-5049 in Carson City or (702) 486-4370 in Las Vegas for an appointment.
2. The Board welcomes all available information on parole applicants, favorable and unfavorable. Recommendations for or against parole should be made in writing, so they may be filed in the inmate folder. They may be made in person, if desired, at the time an appointment has been arranged as indicated in the forgoing sec. 1.
3. The views of Nevada judges, district attorneys, and law enforcement are solicited by the Board, and are duly considered when the decision whether parole is to be granted is made.
4. The victim of any person being considered for parole may submit documents to the Board and may testify at the meeting held to consider the application. All personal information, including, but not limited to, a current or former address, which pertains to a victim and which is received

*(BOARD COMMUNICATIONS Continued)*

by the Board is confidential. The Board may meet with a victim in private immediately prior to a parole hearing to allow for the input of confidential personal information.

5. Any victim or other interested person who advises the Board in writing of their desire to be notified of specific parole hearings and results, and keeps the Board advised of their current mailing address will be notified pursuant to NRS 213.130.

6. The Board may allow input from other interested persons during parole hearings.

**RESTORATION OF CIVIL RIGHTS:**

1. The Board complies with the restoration of Nevada State Civil Rights as provided by NRS 213.155 and 213.157.

**EARLY DISCHARGE FROM PAROLE:**

1. The Board upon recommendation of the NDPP, may petition the sentencing court for early discharge from parole for those demonstrating exemplary conduct on parole and who have completed the required amount of time served in prison and on parole.

2. Requests for early discharge are initiated by the Chief Parole and Probation Officer or his agent.

**NOTIFICATION OF PAROLE APPLICATION HEARINGS:**

1. As required by NRS 213.1085, the Board will send notice of pending parole consideration to all Nevada judges, district attorneys, law enforcement agencies and victims of record 30 days in advance of such action.

**MANDATORY PAROLE RELEASE:**

1. The Board does not determine who is eligible for a mandatory release hearing, but will take the appropriate action on the list provided each month by the NDOC.

2. Inmates with sentences of three or more years, excluding life sentences, may be subject to the mandatory release, which mandates the release of certain prisoners.

3. Inmates excluded from the law are:

a. Prisoners who have consecutive sentences.

b. Prisoners who have violated earlier parole on sentences currently being served.

*(MANDATORY PAROLE RELEASE Continued)*

- c. Prisoners the Board feels there is a reasonable probability will be a danger to the public while on parole.
- 4. Prisoners who have holds from other jurisdictions may be released to the hold only.
- 5. If the mandatory parole release date is within six months of the regular parole release date, the Board may conduct both a regular and mandatory release hearing simultaneously. In these cases, the Board will consider the merits of granting a regular parole first, and only if it is the panel's recommendation to deny parole for a length that exceeds the mandatory release date will the panel then consider the prisoner for mandatory parole release.

**PAROLE VIOLATION HEARINGS:**

- 1. Violation of any of the rules or special conditions of parole can bring about revocation of parole and re-imprisonment.
- 2. The NDPP is responsible for the supervision in the community of all parolees. NDPP also files charges of parole violation and places holds on accused violators. They are also responsible for conducting preliminary hearings when necessary.
- 3. The Board sits as an impartial hearing body at the final violation hearing and determines whether paroles previously granted will be revoked.
- 4. At the violation hearing the Board makes the final decision to reinstate all or part of the statutory good time which is lost upon revocation.
- 5. Violation hearings will be held in northern and southern locations in Nevada, depending upon the location of the alleged parole violator.
- 6. The Board considers only those cases in which the alleged violator and/or his counsel has received a notice of charges, and a copy of allegations and evidence to be used against him.
- 7. It is the concern of the Board that parolees be allowed adequate time after written notification of the parole violation charge to prepare a defense to present at the preliminary inquiry hearing. Accordingly, the Board prefers that the NDPP, unless the parolee at any time before or after the applicable time period waives the preliminary inquiry hearing, allow a period of five (5) days, excluding Sundays and holidays after notification of the charges before conducting the preliminary hearing.
  - a. The five day time period shall be computed as follows:
    - 1. Neither the day of notification, nor the day of the preliminary hearing shall be counted.

*(PAROLE VIOLATION HEARINGS Continued)*

2. Sundays and state holidays shall be excluded from the three day period allowed for presentation of the defense.
  - b. The Board may, at the request of the parolee, inquire as to the circumstances in the event the parolee has not been afforded five days notice and, thereafter, take whatever action it deems appropriate.
8. The Board shall consider the accused violator's case within 60 calendar days after his return to the custody of NDOC, or placement in residential confinement.
9. The alleged violator may with good cause, request the violation hearing be continued to the next monthly hearing if additional time is needed in the preparation of the case. A waiver however, will not be allowed simply for the purpose of delaying the hearing.
10. Since transcripts of parole violation hearings may be subpoenaed for the purpose of impeaching the testimony of the parolee at criminal trials, continuations of violation hearings until pending criminal charges are disposed of may be granted.
11. An alleged violator normally will appear before the next scheduled violation hearing agenda, if practical.
12. The alleged violator may be represented by a private attorney of choice at his own expense or a public defender.
13. Unless a new conviction is included in the violation charge, an alleged violator has the right to present witnesses on his own behalf at his own expense, who can offer information pertinent to the violation charge. This does not include character witnesses.
14. An alleged violator has the right to confront adverse witnesses, but must indicate he wishes to do so on the notice of charges to allow NDPP to schedule the witness to appear. If the parolee has not noted the name of the adverse witness on the notice of charges and indicates his desire to confront the witness at the hearing, if the witness is not in attendance, the Board may continue the hearing to the next day or next month's agenda without violating the 60-day rule for a prompt violation hearing.
15. When the violation is based on new conviction, the accused parole violator may not present or confront witnesses or offer evidence to re-litigate the parolee's guilt or innocence on the new charge. The parolee may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.
16. The Board, in the presentation of charges in parole violation cases, requires whenever practicable that witnesses against the accused violator or the supervising parole officer do not act as presenters of evidence.

*(PAROLE VIOLATION HEARINGS Continued)*

17. Documents, letters, affidavits, or other pertinent information or physical evidence may be presented by either the alleged violator or the NDPP. Substance of pertinent reports from other agencies may be made available to the alleged violator.

18. The alleged violator must submit to the NDOC, (if in prison custody), and the NDPP, a list of names and addresses of witnesses he wishes to present on his own behalf. However, as noted earlier, when the violation is based on a new conviction, the alleged violator forgoes the right to present or confront witnesses in re-litigation of the facts of the new conviction.

19. The findings of the Board will be made a matter of record, including a record of the violations for which the violator was held responsible, and the evidence relied upon to reach these findings may be summarized. A copy of the findings will be supplied to the parole violator.

**VIOLATION HEARINGS IN ABSENTIA**

1. If a parolee is convicted for the commission of a new crime in a foreign jurisdiction and is sentenced to a period of imprisonment, the parolee is not entitled to earn time on the Nevada sentence until completing the sentence imposed in the foreign jurisdiction (if the new offense was committed on or after March 16, 1999).

2. If the parolee waives his right to a violation hearing, the Board may take action to revoke or reinstate the parole of the prisoner immediately or at a later date and allow the Nevada sentence to run concurrent to the new conviction, or take no action at all. If the Board chooses to take no action, the parolee will not earn time on the sentence and will be scheduled to appear before the Board for a personal violation hearing within 60 days of his return to the NDOC.

3. The NDPP will provide the pertinent documents to the parolee and advise him of his rights. Upon receipt of a signed waiver, the NDPP will schedule a hearing as soon as practical, but in no case more than 60 days from the date of receipt of the signed waiver.

4. Once the Board has determined the appropriate action, the NDPP will advise the parolee of the Board's decision and provide a copy of the Board's action to the parolee.

5. If the parolee refuses to sign a waiver, he will be scheduled for a personal hearing within 60 days of being returned to the custody of the NDOC.

**INSTITUTIONAL PAROLE VIOLATION HEARINGS**

1. Inmates who are serving institutional paroles remain subject to the jurisdiction of the Board. Major infractions of the Code of Penal Discipline may result in an institutional parole violation hearing.

2. The NDOC will coordinate with the NDPP to secure the proper documents needed to begin

*(INSTITUTIONAL PAROLE VIOLATION HEARINGS Continued)*

the revocation hearing process and schedule the hearing with the assistance of the NDPP or the parole Board's executive secretary.

3. The Board operates under the Attorney General's opinion stating that no preliminary inquiry hearing is required when the parole violator is not in custody solely pending revocation hearing proceedings. An offender who has been granted parole to a consecutive sentence is not being deprived of his liberty because of parole violation charges, therefore, no preliminary inquiry hearing is required.

4. The finding of a disciplinary committee has the same result of a judgment of conviction in that the inmate had the opportunity to confront and cross examine adverse witnesses and testimony at the disciplinary hearing. The inmate may not present or confront witnesses or offer evidence to re-litigate the parolee's guilt or innocence regarding the guilty finding by the disciplinary committee. The inmate may, however, offer testimony or documents which may mitigate against revocation or the duration of the revocation.

**POWER TO SUBPOENA:**

1. Under the provisions of NRS, the Board is delegated subpoena power by the Nevada Legislature. The Board has established the following rules governing the issuance of subpoenas:

- a. The Board will not automatically issue subpoenas upon request by a parolee or his attorney. The law did not intend, nor has it established, automatic right to a subpoena.
- b. The parolee or his attorney will be required to establish the need for the presence of the requested witness, and the showing that the witness has refused to appear without a subpoena must be included in the request.
- c. To expedite the request, parties seeking subpoenas should include a resume of the tenor of the testimony of the requested witness, and statement as to its relevancy.
- d. Service of the subpoena is incumbent upon the parolee or his attorney.
- e. Requests for subpoenas must be accompanied by witness fees and travel allowances as set by law.
- f. The Board lacks jurisdiction to issue subpoenas to out-of- state residents.

**RESTORATION OF STATUTORY GOOD TIME:**

1. In consultation with the office of the Attorney General, the Board and the NDOC have agreed

*(RESTORATION OF STATUTORY GOOD TIME Continued)*

upon a procedure by which prisoners may seek to have statutory good time credits which they lost at parole revocation proceedings restored.

2. Requests must be initiated with the prison counselors, after six months of disciplinary free behavior. They will be acted on by the Board only after receiving favorable recommendations from classification committees, wardens and the director of NDOC, or his designee. (Refer NDOC regulations).

3. The Board cannot reinstate statutory good time forfeited by violation of paroles granted under the Mandatory Parole Act, (NRS 213.1215, NRS 213.1519).